

House Study Bill 177

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON PAULSEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the state and local public defenders and the
2 representation of indigent persons in court.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2148HC 81
5 jm/sh/8

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1 1 Section 1. Section 13B.1, Code 2005, is amended to read as
1 2 follows:
1 3 13B.1 DEFINITIONS.
1 4 As used in this chapter unless the context otherwise
1 5 requires:
1 6 1. "Appointed attorney" means an attorney appointed by the
1 7 court and compensated by the state to represent an indigent
1 8 defendant.
1 9 2. "Case" means a single criminal charge or set of
1 10 criminal charges in one case, a juvenile proceeding, or a
1 11 criminal appeal.
1 12 3. "Caseload" means the number of criminal or juvenile
1 13 cases handled per year by a local public defender attorney.
1 14 and does not include cases in which the public defender has
1 15 withdrawn or probation violation proceedings.
1 16 2- 4. "Department" means the department of inspections
1 17 and appeals.
1 18 3- 5. "Financial statement" means a full written
1 19 disclosure of all assets, liabilities, current income,
1 20 dependents, and other information required to determine if a
1 21 client qualifies for legal assistance by an appointed
1 22 attorney.
1 23 4- 6. "State public defender" means the state public
1 24 defender appointed pursuant to this chapter.
1 25 7. "State public defender's designee" means a local public
1 26 defender office.
1 27 Sec. 2. Section 13B.4, subsections 2 and 3, Code 2005, are
1 28 amended to read as follows:
1 29 2. The state public defender shall file a notice with the
1 30 clerk of the district court in each county served by a public
1 31 defender designating which public defender office shall
1 32 receive notice of appointment of cases. ~~The state public~~
~~1 33 defender may also designate a nonprofit organization which has~~
~~1 34 a contract with the state public defender to provide legal~~
~~1 35 services to eligible indigent persons prior to July 1, 2004.~~
2 1 Except as otherwise provided, in each county in which the
2 2 state public defender files a designation, the state public
2 3 defender's designee shall be appointed by the court to
2 4 represent all eligible indigents in all of the cases and
2 5 proceedings specified in the designation. The appointment
2 6 shall not be made if the state public defender notifies the
2 7 court that the public defender designee will not provide legal
2 8 representation in certain cases as identified in the
2 9 designation by the state public defender.
2 10 3. The state public defender may contract for the
~~2 11 provision of legal services to indigent persons with persons~~
2 12 admitted to practice law in this state and with nonprofit
2 13 organizations employing persons admitted to practice law in
2 14 this state for the provision of legal services to indigent
~~2 15 persons, if the nonprofit organization has a contract with the~~
2 16 state public defender to provide legal services to eligible
2 17 indigent persons prior to July 1, 2004.
2 18 Sec. 3. Section 13B.9, subsection 4, Code 2005, is amended

2 19 to read as follows:
2 20 4. If a conflict of interest arises or if the local public
2 21 defender is unable to handle a case because of a temporary
2 22 overload of cases, the local public defender shall return the
2 23 case to the court. However, in probation violation
2 24 proceedings, if the local public defender was the attorney for
2 25 the defendant in the underlying criminal case, the local
2 26 public defender shall handle the proceedings unless there is a
2 27 conflict of interest. If the case is returned and the state
2 28 public defender has filed a successor designation, the court
2 29 shall appoint the successor designee. If there is no
2 30 successor designee on file, the court shall make the
2 31 appointment pursuant to section 815.10. ~~As used in this~~
2 32 ~~subsection, "successor designee" may include another local~~
2 33 ~~public defender office or a nonprofit organization that has~~
2 34 ~~contracted with the state public defender under section 13B.4,~~
2 35 ~~subsection 3.~~

3 1 Sec. 4. NEW SECTION. 13B.12 LOCAL PUBLIC DEFENDER AND
3 2 STATE APPELLATE DEFENDER == CASELOAD.
3 3 1. a. The total caseload of a local public defender
3 4 attorney shall not exceed the total of any of the following:
3 5 (1) One hundred fifty felony cases per year.
3 6 (2) Three hundred misdemeanor cases per year, excluding
3 7 simple misdemeanors.
3 8 (3) Two hundred juvenile cases per year.
3 9 b. For purposes of this subsection, if a felony and
3 10 misdemeanor are charged in a single case, the case shall be
3 11 considered a felony.
3 12 2. The total caseload for a state appellate defender shall
3 13 not exceed twenty-five cases per year.
3 14 Sec. 5. Section 815.10, subsections 2 and 3, Code 2005,
3 15 are amended to read as follows:
3 16 2. If the state public defender or the state public
3 17 defender's designee is unable to represent an indigent person,
3 18 the court shall appoint an attorney who has a contract with
3 19 the state public defender to represent the person, or a
3 20 nonprofit organization that has contracted with the state
3 21 pursuant to section 13B.4.
3 22 3. If the court determines that ~~no a contract attorney is~~
3 23 ~~available or an attorney at a nonprofit organization is~~
3 24 ~~unavailable~~ to represent the person, the court may appoint a
3 25 noncontract attorney. The order of appointment shall include
3 26 a specific finding that no contract attorney was available.
3 27 Sec. 6. Section 815.10, subsection 4, Code 2005, is
3 28 amended to read as follows:
3 29 4. The appointment of an attorney shall be on a rotational
3 30 or equalization basis, considering the experience of the
3 31 attorney and the difficulty of the case. However, for
3 32 probation violation proceedings, the court, if possible, shall
3 33 appoint the attorney or local public defender attorney who
3 34 represented the indigent person in the underlying criminal
3 35 case.

4 1 EXPLANATION

4 2 This bill relates to the state public defender and the
4 3 representation of indigent persons in court.

4 4 The bill places limitations on the number of criminal or
4 5 juvenile cases an individual public defender or appellate
4 6 defender can handle each year. Under the bill, a public
4 7 defender shall not handle more than 150 felonies, 300
4 8 misdemeanors, excluding simple misdemeanors, or 300 juvenile
4 9 cases. An appellate defender is limited to 25 appeals per
4 10 year.

4 11 The bill eliminates provisions permitting the state public
4 12 defender to designate a "successor designee" if the local
4 13 public defender office is unable to handle a case. Under the
4 14 bill, if the local public defender's office is unable to
4 15 handle a case, the court shall appoint an attorney or a
4 16 nonprofit organization that has contracted with the state
4 17 public defender.

4 18 In a probation violation proceeding, the bill requires the
4 19 court, if possible, to appoint the attorney or local public
4 20 defender attorney who represented the indigent person in the
4 21 underlying criminal case.

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